

# STATE OF NEW YORK

3580

2023-2024 Regular Sessions

## IN ASSEMBLY

February 3, 2023

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the adoption subsidies provided for disabled or hard to place children

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (c) of subdivision 1 of section 453 of the social  
2 services law, as amended by chapter 83 of the laws of 1995, is amended  
3 and three new paragraphs (c-2), (c-3) and (c-4) are added to read as  
4 follows:

5 (c) No payments may be made pursuant to this subdivision if the social  
6 services official determines that the adoptive parents are no longer  
7 legally responsible for the support of the child or the child is no  
8 longer receiving any support from such parents. For purposes of this  
9 section:

10 (i) "any support" shall be limited to support that is directly for the  
11 benefit of the adopted child that meets the food, clothing, education,  
12 medical and shelter needs of the adopted child and that has an identifi-  
13 able value;

14 (ii) "no longer legally responsible for the support of the child"  
15 means (A) the child has become legally emancipated, married or joined  
16 the military; (B) a court has ruled that the adoptive parent is no long-  
17 er legally responsible for the support of the child; or (C) the adoption  
18 is no longer legally valid by operation of law.

19 (c-1) The social services official on [~~a biennial~~] an annual basis  
20 shall:

21 (i) require adoptive parents to certify that they are fulfilling their  
22 obligations pursuant to any adoption subsidy agreement entered into in  
23 accordance with this section, including their obligation to provide  
24 support for the child;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (ii) remind the adoptive parents of [~~their obligation~~] the following  
2 obligations, which shall also be included in any agreement entered into  
3 with an adoptive parent concerning payments made for the care and main-  
4 tenance of the child pursuant to this section:

5 (A) to support the child [~~and~~];

6 (B) to notify the social services official if the adoptive parents are  
7 no longer providing any support of the child or are no longer legally  
8 responsible for the support of the child[~~-~~]; and

9 (C) to notify the social services official if: (I) another person has  
10 been granted physical custody of the child; (II) another person has been  
11 appointed guardian for the child; or (III) the child no longer resides  
12 with the adoptive parents.

13 (c-2) (i) If the adoptive parents fail to respond to an annual certifi-  
14 cation notice within thirty days of the receipt of the certification  
15 notice from the social services official or the social services official  
16 receives from any person information that provides reasonable cause to  
17 suspect that the adoptive parents are no longer providing any support to  
18 the child, the social services official shall provide written notice to  
19 the parents that a review will be held to determine whether the adoptive  
20 parents are legally responsible for the support of the child and whether  
21 the child is receiving any support from the adoptive parents. Circum-  
22 stances in which the social services official shall conduct this review  
23 include the following:

24 (A) the child has been placed in foster care;

25 (B) a person alleges to the social services official that:

26 (I) a person other than the adoptive parents has been granted legal  
27 custody of the child;

28 (II) another person has been appointed guardian for the child, or

29 (III) the child is reported to no longer reside with the adoptive  
30 parents.

31 (ii) The adoptive parents shall be given an opportunity to respond to  
32 the notice. Upon receiving confirmation that the parents continue to  
33 meet their legal obligations to provide support to the child, the  
34 department of social services will take no further action to reduce,  
35 suspend, or terminate the subsidy. If the parents fail to confirm that  
36 they continue to meet their legal obligations to provide support to the  
37 child, the social services official shall review all available informa-  
38 tion in order to confirm the parents' continued eligibility to receive  
39 the subsidy.

40 (iii) If the child is not in foster care and, based on a review of the  
41 available information, the social services official determines that the  
42 adoptive parents are no longer legally responsible for the support of  
43 the child or that the child is no longer receiving any support from the  
44 adoptive parents, the social services official shall terminate the  
45 assistance provided to the adoptive parents pursuant to this section.  
46 The adoptive parents may appeal the termination of assistance to the  
47 department in accordance with section twenty-two of this chapter.

48 (iv) If the child is in foster care and the social services official  
49 determines that the child is no longer receiving any support from the  
50 adoptive parents, the social services official may reduce, suspend, or  
51 terminate the assistance provided to the adoptive parents pursuant to  
52 this section. The adoptive parents may appeal the termination of assist-  
53 ance to the department in accordance with section twenty-two of this  
54 chapter. If assistance is reduced, suspended or terminated pursuant to  
55 this paragraph and the child is returned from foster care to the care of  
56 the adoptive parents, the social services official shall resume assist-

1 ance effective from the date when the child was returned to the adoptive  
2 parent's care.

3 (c-3) If the social services official terminates the adoption assist-  
4 ance provided to adoptive parents pursuant to paragraph (c-2) of this  
5 subdivision and the child resides with another person who has been  
6 granted physical custody or appointed as guardian of the child, the  
7 social services official shall enter into a written agreement to make  
8 adoption assistance payments to the custodian or guardian. Such payments  
9 shall be made retroactive from the termination of assistance to the  
10 adoptive parents pursuant to paragraph (c-2) of this subdivision and  
11 shall be made until the child's twenty-first birthday. A custodian or  
12 guardian who receives adoption assistance payments pursuant to this  
13 paragraph shall be subject to the same requirements that apply to adop-  
14 tive parents under this section.

15 (c-4) If the social services official terminates the adoption assist-  
16 ance provided to adoptive parents pursuant to paragraph (c-2) of this  
17 subdivision after the eighteenth birthday and before the twenty-first  
18 birthday of the adopted child, and no person other than the adoptive  
19 parents has legal custody or guardianship of the child, the social  
20 services official shall make payments to the child:

21 (i) through direct payments to the child, if the social services offi-  
22 cial determines the child demonstrates the ability to manage such direct  
23 payments; or

24 (ii) to a representative payee certified by the social services offi-  
25 cial in accordance with paragraph (g) of this subdivision.

26 § 2. Clause (B) of subparagraph (iii) of paragraph (g) of subdivision  
27 1 of section 453 of the social services law, as added by chapter 518 of  
28 the laws of 2006, is amended to read as follows:

29 (B) If the twenty-first birthday of the child occurs while awaiting  
30 the certification of a representative payee, the child shall be entitled  
31 to retroactive direct payment of subsidy payments since the death of the  
32 adoptive parent or parents or the termination of assistance to the adop-  
33 tive parent or parents pursuant to paragraph (c-2) of this subdivision  
34 after the eighteenth birthday of the child.

35 § 3. Subdivision 2 of section 453 of the social services law, as  
36 amended by chapter 83 of the laws of 1995, is amended to read as  
37 follows:

38 2. [~~The~~ Any agreement provided for in subdivision one of this section  
39 shall be subject to the approval of the department upon the application  
40 of the social services official; provided, however, that in accordance  
41 with the regulations of the department, the department may authorize the  
42 social services official to approve or disapprove the agreement on  
43 behalf of the department. In either situation, if the agreement is not  
44 approved or disapproved by the social services official within thirty  
45 days of submission, the voluntary authorized agency may submit the  
46 agreement directly to the department for approval or disapproval. If the  
47 agreement is not disapproved in writing by the department within thirty  
48 days after its submission to the department, it shall be deemed  
49 approved. Any such disapproval shall be accompanied by a written state-  
50 ment of the reasons therefor.

51 § 4. This act shall take effect immediately; provided however that:

52 (a) the office of children and family services shall submit to the  
53 United States Department of Health and Human Services, Administration  
54 for Children, Youth and Families, an amendment to the state title IV-E  
55 state plan regarding the provisions of this act;

1 (b) notwithstanding any other provision of law, this act shall not  
2 take effect unless and until ninety days following the date that the  
3 United States Department of Health and Human Services, Administration  
4 for Children, Youth and Families approves a title IV-E state plan amend-  
5 ment regarding the provisions of this act;

6 (c) the office of children and family services shall notify the legis-  
7 lative bill drafting commission upon the occurrence of the submission  
8 set forth in this section in order that the commission may maintain an  
9 accurate and timely effective data base of the official text of the laws  
10 of the state of New York in furtherance of effectuating the provisions  
11 of section 44 of the legislative law and section 70-b of the public  
12 officers law; and

13 (d) the addition, amendment or repeal of any rule or regulation neces-  
14 sary for the implementation of this act on its effective date is author-  
15 ized to be made and completed on or before such effective date.